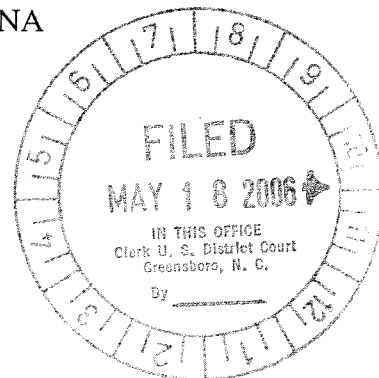


IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Case No. 1:05CV01025



\_\_\_\_\_  
SUSAN SMITH BAITY, Administratrix of the  
Estate of FRANK DEAN BAITY,

Plaintiff,

vs.

\_\_\_\_\_  
HUNGARO TRANSPORTATION, INC.,  
JBT TRANSPORT INC. and  
FLORIN COMICI,

Defendants.  
\_\_\_\_\_

**PETITION FOR APPROVAL OF WRONGFUL DEATH SETTLEMENT**

NOW COMES PLAINTIFF, Susan Smith Baity ("Susan"), Administratrix of the Estate of her husband, Frank Dean Baity ("Frank"), and petitions this Court for an Order approving a settlement reached in this case with all defendants ("defendants"). In support of this petition, Plaintiff shows the Court:

1. This is a wrongful death actions arising from alleged negligence on the part of the defendants. Plaintiff alleged that Frank Baity was crushed by the flatbed truck he had been driving on July 24, 2004 as the result of various acts of negligence by defendants. Defendants have denied any negligence.

2. Plaintiff, through counsel, has negotiated a settlement of all claims against all defendants for the lump sum payment of \$3,625,000.00.

3. The decedent, Frank Baity, was survived by his wife and two children, all of whom are beneficiaries of the settlement:

- (a) Susan Smith Baity  
268 Adam Ridge Road  
State Road, NC 28676

Date of Birth: February 11, 1963

(b) Phyllis M. Baity (daughter)  
8815 Longbottom Road  
Hays, NC 28635  
Date of Birth: February 3, 1985

(c) Travis C. Baity (son)  
8815 Longbottom Road  
Hays, NC 28635  
Date of Birth: April 11, 1990

The minor child still lives at home with his mother, Virginia Baity.

2. Key Risk Management, Inc. is the workers' compensation carrier for Mr. Baity's employer, Southeastern Cars & Parts. To date, Key Risk Management, Inc. has paid approximately \$36,000 in workers' compensation benefits. The total benefits payable for the workers' compensation will equal \$154,000. The present value of the entire lien is \$\_\_\_\_\_. Although the workers' compensation carrier has not taken any active role in the litigation and has only paid a fraction of the workers' compensation benefits owed the Baity family, it contends that it is entitled to a lien against the settlement proceeds. This Court has the authority, in its discretion, to strike the entire workers' compensation lien so that this coverage can be made available to the Baity family to partially compensate them for the extraordinary loss they have sustained. Plaintiff requests that this Court strike the workers' compensation lien in its entirety pursuant to N.C.G.S. sec. 97-10.2(j).

4. Plaintiff's attorneys, W. Thompson Comerford, Jr. and Alan R. Dickinson with Comerford & Britt, L.L.P. in Winston-Salem, North Carolina, and Daniel J. Park of Elkin, North Carolina have rendered good and valuable services in the prosecution and settlement of these claims. Plaintiff requests that these attorneys be paid the amount that they agreed upon in writing

in advance of this lawsuit, which was thirty percent of the gross present value of the recovery (\$3,625,000), which equates to \$1,087,500.00. Also by agreement, each firm will receive half of the above \$1,087,500.00 in attorneys' fees, or \$543,750.00 in compensation for the good and valuable services provided. Plaintiff believes that this amount is fair and reasonable. Plaintiff also requests that her attorneys be reimbursed for the costs and expenses they have incurred in this case, which total \$13,223.89.

5 As part of the settlement, the settling parties will require that upon the execution of this Order and payment of the settlement funds, Plaintiff will execute a comprehensive release Release to the defendants and all related persons/entities.

6. It is in the best interests of Susan Smith Baity, as Administratrix of the Estate of Frank Dean Baity, and the beneficiaries of Frank Baity's estate to compromise and settle all claims pursuant to the terms set forth herein and in the Release to be signed by Plaintiff.

7. Settlement breakdown:

Gross Settlement:	\$3,625,000.00
Attorneys' Fees	
Comerford & Britt, LLP	\$ 543,750.00
Law Office of Daniel J. Park	\$ 543,750.00
Costs/Expenses (attorneys)	\$ 13,223.89
Lien Funds (held in trust)	\$ 154,000.00

Payments to the survivors of Frank Baity:

Susan Baity:	\$ 810,092.04
Phyllis M. Baity (now age 21)	\$ 780,092.04

Travis C. Baity (now age 16)


\$ 780,092.03


The funds for the minor child, Travis C. Baity, will be placed in a structured settlement, with payments to begin after he reaches the age of majority. The minor child's mother, Virginia Baity, has reviewed the structured settlement proposals and believes this settlement to be in the best interest of the child. The structured settlement plan is available for the court's review.

8. Plaintiff respectfully requests that the Court approve the settlement and distribution described herein and give Plaintiff the authority to execute a Release and any other documents that are reasonably necessary to effectuate the settlement described herein.

9. Plaintiff has spoken with Judge's Chambers requesting that this matter be place on the May 18, 2006 motions calendar. This date and time are agreeable with defense counsel.

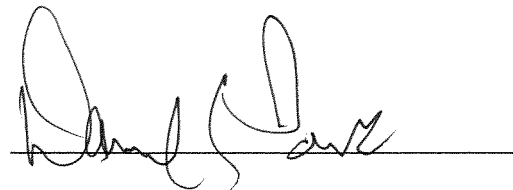
This the 18 day of May, 2006.

  
Susan Smith Baity, Administratrix of the  
Estate of Frank Dean Baity

  
W. Thompson Comerford, Jr.  
Alan R. Dickinson  
Attorneys for Plaintiff

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